

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

OLA MAE SMITH, )  
                      )  
Plaintiff,         )  
                      )  
v.                   ) Case No. 4:05CV923 RWS  
                      )  
SHEILA S. COX,     )  
                      )  
Defendant.         )

**MEMORANDUM AND ORDER**

This matter is before me on Plaintiff's motion to remand [#5]. There is no basis for invoking federal jurisdiction, so the motion will be granted.

Smith is suing Cox for personal injuries she alleges she sustained in a motor vehicle accident. Smith alleges that the cause of the accident was Cox's negligence. At the time of the accident, Cox was an employee of the American Red Cross ("Red Cross") and was acting in the course and scope of her employment.

Smith originally sued both Cox and the Red Cross. The Red Cross removed the original case to this Court in the case styled 4:04CV1816 RWS. The Red Cross's removal argument was based on 36 U.S.C. § 300105(a)(5), which states that the Red Cross may "sue and be sued in courts of law and equity, State or Federal, within the jurisdiction of the United States." Smith then moved the Court to dismiss her claims against the Red Cross with prejudice and remand the case to state court. I granted the motion.

Defendant has removed the instant action to this Court on the theory that the Red Cross is a *de facto* party because it is financing the litigation, and therefore the case is removable under 36 U.S.C. § 300105(a)(5).

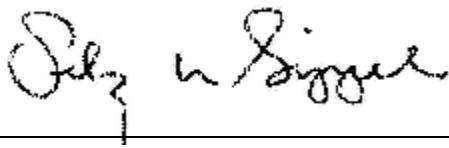
I will grant the motion to remand because this is not a case where the Red Cross is “su[ing] or be[ing] sued.” As a result, by its plain language, 36 U.S.C. § 300105(a)(5) does not apply.

Accordingly,

**IT IS HEREBY ORDERED** that Smith’s motion to remand [#5] is **GRANTED**.

An appropriate Order of Remand will accompany this Order.

Dated this 22 Day of June, 2005.

  
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RODNEY W. SIPPEL.  
UNITED STATES DISTRICT JUDGE